FILE

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FILED
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CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY DEPUTY

COPY

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA

James H. Cunningham, Petitioner John Marshall (Warden), respondent	NO. 07cv2183 DMS (RBB) REQUEST: Appointment of Counsel for the incompentent: And Mentally Ill

To The Honorable Courts:

I James H. Cunningham would like to Move the Courts to up held Fed-Digest. As stated Federal Court digest rights and Necessity Federal-Law: after it was determented that Pro se habeas Petition Could not be dismissed for failure to prosecute without first holding a competency hearing. District Court could appoint Counsel to represent Petitioner at competency hearing if it determined that such appointment was advisable. Rules governing 2254 cases, Rule 8(c), 28 U.S.C.A. foll. 2254.

In addition the Code of Civil Procedure: 2016.310 Title 4. Civil-Discovery act #15 Physical or Mental Examination. Article *1 General Provision CH. 172 of Reg. Sess. Urgency legislation *2032.020. Person Subject to discovery: Qualifications of Examining Phsicians and Psichologists

(A)(B)(C) CCP(A)(B)(C) Section 1013: Article #9 (A)(B). Petitioner will be using federal & State Law & authorities to be Effective and in align with this request. So to sustain audience interest and attention with introdution. So Petitioner hope and Pray for rights and Necessity.

General Provisions

2019.010 Approved Methods: Any party may obtain discovery by one or more of the following Methods:

(A). Oral and written despositions

(b.) Interrogatories to a Party

(C.) Inspection of documents, things and Places

(D.) Phisical and Mental Examination

(E) request for admission[1]

(F.) Simultaneous exchange of expert trial witness information

Petitioner insert this request may be premature so to stay within the interlope Petitioner is fertilizing District court with the above and forgoing request

Requesting Appointment of Counsel

The is no absolute right to Cousel in non-death Penalty: federal habeas case. 234: Chaney v. Lewis (9th cir 1986) 801 F.2d 1191

However counsel must be appointed if an evidentiary hearings are necessary. *235: Federal Rules of habeas Corpus rule *8(C).

If counsel is required for effective use of discovery #236 Federal Rules of Habea Corpus, Rule *6(A).

OR if counsel is required to afford due process. Particularly in complex cases. Hose v. Bell (2006) 126 Sct at 2087 actual innocence Jencks v. United States (1957) 353 U.S. 657. 77 Sct 1007. impeachment Dretke v. Haley (2004) 541 US 386, 124 Sct 1847) Miscarriage of Justic Dillon v. United States (9th Cir 1962) 307 F. 2d 445.

APPOINTMENT OF COUNSEL

Federal Judges also have the discretion to appoint counsel in other circumstances if it is in the interests of Justic: Sarausad v. Porter 479 F. 3d at 677 (9th cir 2007 Shepardized from winship Therefore courts making such a determination will consider the strength of the issues. The Petitioners ability to artiqulate the claims. Petitioner also suffers from Emotional disorder. And finds it to be an complexity of issues: *238: 18 U.S. 3006 A. 28 USC 1915(d). 2254 (H); Federal Rules of Habeas Corpus, Rule 8(c); Bashor v. Risley (9th cir 1984) 730 F.2d 1228.

IN DETERMINING COUNSEL

Whether: Appointment of counsel is necessary in case involving party who is unable to represent himself because he is minor or otherwise incompetent, court should consider fact that without appointment of cousel, case will not go at all Wenger V. Canastota Cent. sch Dist. (1998 CA 2 NY 146 123, 41 F 744. Cert: den (1999) 526 US 1025 143 L Ed 2d 363; Ct 1267.

Disclorants

I, James Cunningham ask in plead to appoint Guardian Ad Litem Petitioner holds 4? California rules of Court, Starting with Rule 1100. request for accomodations. So without the Honorable Courts Possibly by chance Violate amendments. I submitted for Judgement these rules of court for the incompetence of Petitioner. I plea for greater Counsel respectfully speaking Petitioner has been enthusiastic about his Petition.

Petitioner would like to state in his pursuants of relief he has been unsuccessful as being Layman. Petitioner Legal obilgation for disruption. Petitioner plead with the courts to complie with the California rules of Court (especially with Law always changing an to relie on the Library yesterdays filings

I James Cunningham swear under Penalty and Perjury to my Knowlege the above is true

Date: 3-18-08

Sign [signature]